

Date: 4 July 2025

Jenny McAlarney
Youth Justice Policy Unit,
Department of Justice,
Castle Buildings
Belfast
BT4 3SG

By email: yipu@justice-ni.gov.uk

Dear Jenny

RESPONSE TO CONSULTATION ON COURT-ORDERED COMMUNITY SENTENCES FOR CHILDREN AND YOUNG PEOPLE

The Probation Board for Northern Ireland (PBNI) welcomes the opportunity to respond to the Department of Justice (DoJ) consultation on court ordered community sentences for children and young people. This is in line with the Strategic Framework for Youth Justice published in 2022 and we note that a Children's Rights Impact Assessment (CRIA) was undertaken prior to the consultation.

By way of context approximately 0.2% of PBNI's current caseload is comprised of young people under the age of 18 years. These proposed changes will result in a small decrease in PBNI caseload as the current suite of PBNI supervised orders will not be sentencing options for the court going forward. PBNI do however support the ambition to simplify the sentencing framework for children's disposals and to reduce the number of community sentences. We support the approach to child-friendly justice with court ordered community sentences that are more easily understood by children and their parents/carers and prevent multiple orders that require management and resourcing by the Youth Justice Agency (YJA) and PBNI. PBNI also acknowledges the central importance of retaining restorative approaches in the youth justice system and if appropriate ensuring victim involvement.

It is widely recognised that offending behaviour does not occur in a vacuum. Many of the young people who encounter the juvenile justice system in NI have experienced significant trauma,

Adverse Childhood Experiences (ACEs), disadvantage or difficulty in their lives and preventative strategies and programmes must seek to address these. PBNi strongly advocate for further investment in the provision of services and support for children and young people prior to contact with the criminal justice system. Early intervention to avoid the potential criminalisation of children and young people is fundamental if we are to prevent offending and reoffending.

I have enclosed the PBNi's response to the questions as outlined in the consultation document. I welcome the opportunity to discuss the response if required and if you have any queries, please do not hesitate to contact either myself or Aideen McLaughlin.

Yours sincerely,

A handwritten signature in black ink that reads "Amanda Stewart". The signature is written in a cursive, flowing style.

Amanda Stewart OBE
Chief Executive

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PROBATION BOARD FOR NORTHERN IRELAND
RESPONSE TO CONSULTATION ON COURT-ORDERED COMMUNITY SENTENCES FOR
CHILDREN AND YOUNG PEOPLE

1. We propose that there is no need to specify a minimum duration in legislation for the new order. Do you agree with this proposal?

PBNI agrees with the proposal not to specify a minimum duration in legislation for the new order. As has been seen within the Youth Conference Order the restorative meeting may be sufficient to enable the young person to hear the impact of the offence on the victim and make amends for the harm caused. Victims may also be satisfied with hearing and understanding how the young person came to commit the offence, and no further action may be required.

2. Have you any views on what the maximum duration should be for the new order?

PBNI are engaged with a very small number of young people under the age of 18 years who are subject to Probation Orders and for most of those young people the length of supervision will be 12 months. PBNI appreciate the impact that a 3-year order would have on the rehabilitation periods for a conviction to be spent and would be of a view that the maximum length of an order for a young person should be 2 years. The period of 2 years would provide flexibility to impose a community sentence for more serious offences and ensure that there is sufficient time for the young person to engage in an intervention to address their needs and offending related behaviours without the court needing to impose a custodial disposal.

3. In England and Wales before making a Youth Rehabilitation Order the court must obtain and consider information about the child's family circumstances and the likely effect of such an order on these circumstances. They must ensure any requirements are compatible with each other and do not conflict with the child's religious beliefs or interfere with their education. The intention would be to replicate this approach for the new order.

Do you agree with this approach?

Yes, PBNI agree with this approach. Currently within the Youth Court PBNI may be required to prepare a pre-sentence report to assist the court in sentencing options for the young person. Feedback from sentencers indicates that they place a high value on the importance of presentence reports and the role they have in sentencing. For this reason, it is important that reports are retained for children and young people.

4. Do you agree that educational attendance should not be included as a requirement in the new order?

Yes, as this could be detrimental to the child with the potential of criminalising them should they not adhere to it. Alternative methods of addressing poor school attendance should be sought.

5. We propose that an activity requirement should be included in the new order – do you agree?

Yes, as it is widely accepted that one of the most effective ways to reduce offending is by helping young people acquire training or stable employment.

6. We propose that there is no need for a separate programme requirement as this is already provided for – do you agree?

Yes. PBNi is of the view that the activity requirement is sufficiently flexible to be able to deliver a full range of interventions to address the needs and risks that a young person may present.

7. Do you agree with the proposal to include a supervision requirement?

Yes. As noted in the consultation document this supervision requirement is already contained within the current Youth Conference Orders and is working well. In our view there is no need to change this.

8. Do you agree that a separate attendance centre requirement is not needed?

Yes, the proposed provisions under the new order for an activity requirement and supervision requirement will achieve the same aims of an Attendance Centre Order so a separate requirement is not needed.

9. Do you agree with the inclusion of a curfew requirement in the new order?

Yes, PBNi agree that a curfew should be included in the new order as it can provide victims with reassurance that the young person will not be out late at night. It can also act as a supportive measure to parents/carers to assist in managing the risks associated with a child or young person who is continually leaving home at night. The consultation paper refers to having a maximum of 12 hours set for children and has the rationale that it would be expected that a child would be home earlier in the evening than an adult for whom curfews generally starts at 10pm. The use of restrictive practices should be rights compliant.

10. Have you any views on the daily maximum length of time a child should be held under a curfew?

The aim of this new order is to simplify disposals for young people and parents and to support the young person as far as possible to complete their order. Therefore, it would be important that curfews are only put in place for the critical few who require them and for the shortest length of time i.e. for a maximum number of weeks in order to support the young person in changing their behaviours and committing to their order. PBNi would want to highlight that this is one of the conditions that a young person will be most likely to break as they will be subject to peer pressure from others to continue to stay out at night or they may be vulnerable to child sexual or child criminal exploitation which also may impact on their commitment to adhere to a curfew. This would need to be considered when responding to incidents where curfews are breached and a proportionate response taken.

11. Do you agree with the inclusion of an exclusion requirement in the new order?

Yes.

12. If you agree with the inclusion of an exclusion requirement, do you think it should be a stand-alone requirement or continue to be covered by the general provision around ‘conduct and whereabouts?’

PBNI view this as an important aspect of the new order as it will provide reassurance to a victim that the young person who has offended against them will not be in the area where either the offence took place or where the victim is present. It is also the view of PBNI that to have this as a standalone requirement of the order may be clearer and more easily understood by the young person and hopefully there will be a greater level of compliance with this requirement.

13. Have you any views on the maximum length of time an exclusion requirement should be applied in the new order?

In line with the provisions in England and Wales, PBNI is of the view that a three-month period for an exclusion is the maximum that should be available. Any longer than this risks the young person becoming frustrated with the restriction and increases the likelihood of breaches occurring.

14. Do you agree with the proposal to include an electronic monitoring option?

Yes. PBNI would agree with the proposal to include electronic monitoring as when combined with a curfew it can be a useful tool to assist an individual to adhere to the requirements of an order. In working with adults PBNI may seek an additional requirement of electronic monitoring and a curfew if there is demonstrable evidence of increased risk. This can be useful in maintaining someone in the community and as a last step to stabilise the situation before a breach or recall is initiated. This approach could potentially work for children and young people but we would caution that this needs to be applied proportionately against the level of risk and for the minimum length of time necessary to stabilise behaviours. PBNI notes that the use of electronic monitoring for young people subject to Youth Conference Orders has been very limited and we would suggest that this is a recommendation that the Department may wish to consider further as it does represent a restriction on a child's liberty. We would suggest that electronic monitoring for young people should only be considered in exceptional circumstances where it is required to prevent a child being admitted to custody.

15. Do you agree that there is no need for a separate prohibited activity requirement?

Yes. PBNI are of the view that this can be incorporated in the general requirement. We also know that rather than imposing restrictive activities without explanation, if young people can be engaged in understanding why a restriction is being put in place they are more likely to adhere to it.

16. We therefore propose that there is no need for a mental health treatment requirement in the new order – do you agree?

Yes. It is our view that engagement with mental health services should be on a voluntary basis but that the Youth Justice Agency staff and parents/carers have an important role to play in encouraging, motivating and supporting young people to avail of mental health treatment where the need has been identified but it should not be a requirement that could result in breach action if not complied with. PBNI notes that YJA have delivered effective partnerships with local CAMHS teams in several Trust areas where the CAMHS staff member is based in YJA premises. We note that this co-located approach has resulted in high levels of engagement by young people and resulted in positive outcomes. PBNI would

advocate for an expansion of this approach to ensure that young people have an opportunity to access appropriate mental health services at the right time for them.

17. We therefore propose that there is no need for a specific drug treatment requirement in the new order – do you agree?

Yes. PBNi is in agreement that specific treatment for drug and alcohol misuse could be taken forward as part of an activity requirement rather than be a standalone option. For adults subject to probation supervision there are provisions for an individual to be required to undertake a programme of work to address their addiction but the models of intervention for children and young people are different and can be managed under an activity requirement. Again, it is important that the motivational work is undertaken with the young person to get them to a point where they can engage in work to address this but this is not a requirement that needs to be specified separately.

18. Do you agree with the proposal not to introduce drug testing?

For adults PBNi recognises the need to undertake drugs tests on occasions with people who are subject to supervision within the community, and this is used to assist us in managing risk. Within the Substance Misuse Court drug testing is an integral part of the programme and can evidence how someone's use of substances is decreasing over time. For young people there is no evidence to suggest that a drug testing requirement in the new order is needed.

19. It was proposed that the new order would have a limit of 100 hours of unpaid work where that was combined with other requirements but could extend up to the current maximum if given as the sole requirement in an order. The age limit of 16 should remain.

Do you agree with these proposals? If you disagree, please set out your reasons / alternative proposals?

PBNi agrees with the proposals and retaining the cap of 100 hours unpaid work when combined with other requirements and the age limit of 16 years being applied. It is suggested that for those aged 16 there should also be a minimum number of unpaid work hours of 40 and this would align with what is currently available as part of a Combination Order or ECO. It is suggested that for those children and young people under the age of 16 there should be a proportionate minimum and maximum number of hours unpaid work that would be available as part of the new order. It is suggested that the hours could be aligned with what is currently within the Attendance Centre Order a minimum of 12 hours and a Community Responsibility Order a maximum of 40 hours. It is likely that the majority of unpaid work requirements will be included in orders for young people who have attained the age of 16 but it may be helpful to have the other limits stipulated. In considering the requirement for unpaid work PBNi consider that the upper limit of 100 hours would be reserved for very few young people and the majority would have much fewer hours to complete. We would want to highlight the importance of any placements being child friendly and the content of the work being focused on building the young person's skills, supporting their rehabilitation, and reducing the risk of further offending. Consideration would also need to be given to the individual needs of the young person and any disabilities or other needs such as speech and language and communication issues which could impact on their ability to undertake unpaid work.

20. Do you agree that there is no need for a specific ISS requirement?

PBNI are of the view that further consideration should be given to this type of requirement. It is noted in the consultation document that PBNI and YJA co-manage some serious cases effectively without the need for such a requirement. Once the new order is in place PBNI will no longer be involved in co-managing these young people and responsibility for managing these Orders will solely be with the YJA. PBNI also note that young people under the age of 18 will no longer be able to access the Aspire Project¹ via a Probation Order or be subject to an ECO which offers additional levels of support and is a direct alternative to a custodial sentence. For these reasons we propose that DoJ consider including a requirement like ISS so that the YJA can develop wrap-around supports and interventions which will address the needs and risks that some of the young people involved in persistent and serious offending present. This could be particularly helpful in addressing the needs of young people who may present at risk of radicalisation or involvement in paramilitarism. PBNI would suggest that the term “surveillance” has connotations and that this could be replaced by “support” to make it a more positive requirement.

- 21.** There are three further requirements which can be included in a Youth Rehabilitation Order, a residence requirement, a local authority residence requirement and a fostering requirement.

Do you agree that these are not relevant or suitable for Northern Ireland?

Yes.

- 22.** One element which can be included in Youth Conference orders but not Youth Rehabilitation Orders is to make a financial payment to a victim. This is not a fine but victim-centred restitution. It is suggested that this should be limited to those aged 16 or over and based on their ability to pay.

Do you agree that this should remain an option for those aged 16 or over?

PBNI agree that this provision should remain however, we would have concerns at how an assessment of the ability of the young person to pay would be undertaken. We also recognise the impact of poverty and increasing costs of living and would suggest that it may be important to place an upper limit on the amount of financial restitution a young person may be asked to pay in one calendar year. We note that the average payment made in the past 2 financial years was £80 and would suggest that an upper limit to consider would be £100.

- 23.** Two further elements are currently included in Youth Conference Orders but not in Youth Rehabilitation Orders. These are a requirement to make an apology to the victim of anyone affected and a requirement to make reparation to the victim, any relevant person of the wider community. It is the intention of the new single order for a restorative engagement to take place at any stage of the order not necessarily at the start of the process and therefore it may not be known at the commencement whether an apology or reparation will be offered by the young person or welcomed by the victim therefore it was suggested that

¹ The aim of Aspire is to reduce criminality and risk-taking behaviour in young men aged 16–30 who are marginalised from communities and at risk of becoming involved in paramilitarism. It is a collaborative project led by PBNI and delivered in conjunction with the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO), Northern Ireland Alternatives (NIA) and Community Restorative Justice Ireland (CRJI).
Changing Lives for Safer Communities

these elements would not be available as discreet requirements but could be included under the general activity requirement.

Do you agree with this approach?

PBNI has considered this, and we recognise the importance of an apology and reparation to a victim, and these are often offered spontaneously during the restorative conference involving both parties. For most young people coming before the courts it is hoped that there will be provision to continue to deliver the restorative process following the court referral and present a report to the court which will include actions to repair the harm to the victim and make amends. Where young people are engaged in further offending and require additional requirements to be added to the original order this can be managed by facilitating a further restorative meeting with the victim and adding additional requirements onto the original plan in court. For this reason, we are of the view that these two requirements should remain as standalone requirements, but which are available at any point during the Youth Rehabilitation Order to be added in to the original order. It is our view that this would ensure that the needs of individual victims are met.

- 24.** Members of the working group felt that the new order should include a specific requirement to explore opportunities for a restorative engagement between the parties possibly as a compulsory requirement of the new order.

Do you agree that the consideration or restorative justice/victim engagement should be a specific requirement in the new order?

Yes. PBNI agree that this should be a specific requirement in the new order. Northern Ireland's Youth Justice system is regarded as a world class model of restorative justice, and it has been extensively evaluated and researched as delivering positive outcomes for both victims and young people. It is important that this work is protected, and that restorative justice continues to be integrated into practice to ensure that the needs of victims and young people continue to be met. As detailed previously, PBNI's hope would be that in most court referrals that a restorative conference could take place pre-court with agreed actions included in a Youth Rehabilitation Order which will both address the harm caused to the victim and engage the young person in work to address their offending behaviour.

- 25.** If you agree, do you think this should be a compulsory requirement for each order?

Yes. A compulsory requirement for each order is the only way that restorative justice will be retained at the heart of practice.

- 26.** Are there any other things that need to be considered in relation to the structure or content of the new order?

It will be important to ensure that the new order is aligned with responsibilities under the Victims Charter and that the needs of victims are met within the requirements of the new order. If victims are not engaged in the process from the outset the risk is that the outcomes of the Youth Rehabilitation Order will be the same as those in England and Wales where there is no role for the victim and the order becomes a generic supervision order which lacks the restorative element. At a time when so much work is happening to embed restorative justice within the adult criminal justice system it will be important to retain and enhance the practice for children and young people that has developed over the past 22 years.

27. The intention of the development of a Youth Rehabilitation Order is to simplify and streamline the youth community sentences framework and the ambition is that there should only ever be one community order in force at any time. The new provisions will enable a court to either revoke the existing order and resentence for all offences or add to/amend the existing order to take account of the new offences.

Do you agree with this approach.

Yes. PBNI agree with this approach however it will be important when amending or adding to an order to consider what elements of an order have been completed and ensure that any commitments made to the victim have been delivered.

28. The final issue in relation to the new order is what happens if there is a breach and whilst it is noted that there have been low levels of breaches of YJA orders over the past 5 years the removal of the existing orders will mean that there is no alternative community sentence that can be imposed if a Youth Rehabilitation Order is revoked. It is proposed that the options for dealing with a breach would be:

- Take no action and allow the order to continue in its original form.
- Amend the requirements of the order. This could be to add to or remove requirements or to extend the duration of the order to enable compliance.
- Revoke the order and re-sentence
- Revoke the order with no further action.

It was agreed that the option to impose a fine alongside the continuation of the order following breach should not be included as it may place an additional financial burden on children and families however a fine could be imposed if the order was revoked and the child was resentenced.

Do you agree with the options for breach of the new order as set out above?

Yes. PBNI agree with these options. Previously a Community Service Order would have been one of the sentencing options following breach of a Youth Conference Order and this option would remain available to the court by way of imposition of a number of hours unpaid work if they revoked the order and resentenced the young person to unpaid hours only. It will be important in any breach proceedings to ensure that the child/young person understands why the order is being returned to court and they understand how the breach has been dealt with. It will be important also that where breach proceedings are initiated that victims are also informed of this and of the outcome.

It is noted in the consultation document that for young people who have turned 18 by the first breach hearing, the breach must be heard in an adult Magistrates Court. Where this happens and the young person remains subject to a Youth Rehabilitation Order clarification is needed as to whether responsibility for the supervision of that order would remain with YJA or transfer to PBNI. For continuity it would make sense for YJA to continue their involvement as they have established the working relationship with the young person, their family and the victim.

29. Do you have any other suggestions in relation to how a breach should be addressed?

No.

30. Your views would be welcome on potential benefits and measures of success.

PBNI notes the programme objectives to replace the existing 7 community orders with one single flexible order and the ambition to ensure that restorative justice/victim engagement is central to the process but delivered in a flexible way to meet the needs of the parties. PBNI would highlight that most victims engaged in the Youth Conference process want to be engaged at an early stage in a restorative process and have commented positively on the outcomes. We note that victims speak often about delay in the criminal justice system and the lack of opportunities for their voices to be heard and we would want to emphasise that where it is possible to engage a victim at the pre-sentence stage in a restorative process and include actions in a court order all parties have greater buy-in and better outcomes.

We note also the intention to designate the Youth Justice Agency as the single organisation which will be responsible for the supervision of the new community order. PBNI recognise that the YJA are best placed in terms of its skills and experience in supervising children and young people.

It is suggested that one additional benefit that could be added might be for a reduction in time in the number of 18-year-olds entering into the adult youth justice system.

Do you have any final comments to make which have not already been covered?

No.